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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Office Action Summary	Application No.	Applicant(s)
		10/601,562	KIM, YOUNG-GU
		Examiner	Art Unit	
		Tuan A. Vu	2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _07 May 2007_.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-22_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-22_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to the Applicant's response filed 5/07/07.

As indicated in Applicant's response, no claims have been amended, and claim 22 added.

Claims 1-22 are pending in the office action.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new
>
> and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.   Claims 9-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed

to non-statutory subject matter.

The Federal Circuit has recently applied the practical application test in determining whether the claimed subject matter is statutory under 35 U.S.C. § 101. The practical application test requires that a " useful, concrete, and tangible result" be accomplished. An "abstract idea" when practically applied is eligible for a patent. As a consequence, an invention, which is eligible for patenting under 35 U.S.C. § 101, is in the "useful arts" when it is a machine, manufacture, process or composition of matter, which produces a concrete, tangible, and useful result. The test for practical application is thus to determine whether the claimed invention produces a "useful, concrete and tangible result".

The current focus of the Patent Office in regard to statutory inventions under 35 U.S.C. § 101 for method claims and claims that recite a judicial exception (software) is that the claimed invention recite a practical application. Practical application can be provided by a physical transformation or a useful, concrete and tangible result. The following link on the World Wide Web is for the United States Patent And Trademark Office (USPTO) policy on 35 U.S.C. §101.

<http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf>

Specifically, claim 9 recites an apparatus comprising a first unit installing a device driver

using a input file; and a second unit which re-installs the device driver using the input file when

the re-installation is requested. From the specifications, these recited units are computer-

executable software-implemented functional entities; and the claim lacks teaching to enable one

skill in the art to reasonably construe that a hardware or tangible device is supporting the

functionality of the software entities thus claimed. Further, there is no explicit and deliberate

definition therein by which the 'apparatus' as recited can only be construed as one meaning, e.g.

that is actually defined a computer. How this apparatus (treated herein as a product claim) is

further described resides on the remaining part of the claim so that as a whole, the claim would

be reasonably construed as accomplish a final practical application result. The recited apparatus

is recited to include the above first unit and second units. As a whole, the claim amounts to

reciting 2 software entities for lack of further information whatsoever about any hardware beside

the claimed 'apparatus'. Thus broadest interpretation has been used, and apparatus amounts to

first and second units as recited. Comprising solely of software entities without any such

tangible support or hardware/executing engine to carry the functionality of these software

entities, the claimed invention is not reasonably perceived as able to yield a tangible result.

Because software instructions without physical storage and computer hardware execution engine

in conjunction with that storage would not be perceived as being able to carry out any

functionality. The claim hence fails to fulfill the Practical Application Test as set forth above;

and is rejected for leading to non-statutory subject matter.

Claims 10-11 are rejected for also failing to provide a hardware-based or tangible

embodiment that would support the functionality of the recited elements of the base claim.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5.   Claims 1-4, 9-10, 12-15, 17-21 are rejected under 35 U.S.C. 102(a) as being anticipated by Pro/Intel, "Installing the Intel Pro/Wireless 2011 LAN PC Card in Windows 2000 Professional", Jan 08 2002, *WinBook Tech Article* - article # WBTA09000774 (hereinafter IntelWBTA).

As per claim 1, IntelWBTA discloses a method of installing a device driver in a computer to drive a device that performs a predetermined function, the method comprising: installing in the computer the device driver using a device driver file provided from the outside (e.g. steps 4-10, pg. 3); and copying and storing the device driver file (e.g. step 10, pg. 3).

As per claim 2, IntelWBTA discloses re-installing the device driver in the computer using the stored device driver file (e.g. steps 4-13, pg. 4-6 – Note: any one file being copied during the installation the ProWireless driver reads on device driver file) when re-installation of the device driver is requested (e.g. *Select Setup.exe* –step 4, pg. 5).

As per claim 3, IntelWBTA generating an icon for re-installation (e.g. steps 3-4 pg. 5) of the device driver after the device driver file is copied and stored.

As per claim 4, IntelWBTA discloses re-booting the computer after the device driver file is copied and stored (e.g. *Restart ... prompted by Windows* -- step 11, pg. 3).

As per claim 9, IntelWBTA discloses an apparatus installing a device driver to drive a device that performs a predetermined function, the apparatus comprising:

a first driver installation unit installing in the apparatus the device driver using a device driver file input from the outside while storing a device driver file (e.g. steps 4-10, pg. 2-3); and

a second driver installation unit, which re-installs the device driver using the stored device driver file input from the first driver installation (e.g. steps 4-13, pg. 4-6) when re-installation of the device driver is requested (e.g. *Select Setup.exe* –step 4, pg. 5).

As per claim 10, IntelWBTA discloses the first driver installation unit wherein:

a file examination unit, which examines whether the device driver file is input and outputs an examination result (e.g. *insert CD, auto run...window explaining ... features* - steps 1-2, pg. 1) as a first control signal;

a first installation preparing unit, which prepares for installation of the device driver in response to the first control signal and outputs a preparation completion signal (e.g. *message ... has found ... device* - steps 4-7, pg. 2) representing whether the preparation of installation is completed;

a first installation unit, which installs the device driver in response to the preparation completion signal (steps 8-10 – pg. 3); and a storing unit, which copies and stores the device driver file (step 10- pg. 3 – Note: installation finished reads on file being stored by virtue of inherent teaching and any one file being copied during the installation the Pro-Wireless driver reads on device driver file).

As per claim 12, IntelWBTA discloses a machine-readable storage storing at least one program controlling a computing device according to a process comprising:

receiving a device driver file; installing the device driver in the computer; and copying and storing in the computer the device driver file (e.g. steps e.g. steps 4-10, pg. 2-3).

As per claim 13, IntelWBTA discloses allowing re-installation of the device driver in the computer using the stored device driver file (steps 4-13, pg. 4-6) when re-installation of the device driver is requested (*Select Setup.exe* –step 4, pg. 5).

As per claim 14, IntelWBTA discloses determining whether the device driver file is input (*insert CD, auto run...window explaining ... features* - steps 1-2, pg. 1); preparing for installation of the device driver in the computer when it is determined that the device driver file is input (e.g. steps 4-7, pg. 2); and installing the device driver in the computer (steps 8-10 – pg. 3).

As per claim 15, IntelWBTA discloses generating a device driver re-installation icon; and upon selecting the device driver re-installing icon (steps 3-4 pg. 5 – Note: icon in select *Select.exe* step 4 reads on selecting re-installation icon), re-installing the input device driver using the stored device driver file without accessing the input device driver file.

As per claim 17, IntelWBTA discloses determining whether the device driver file is input; preparing for installation of the device driver in the computer when determined that the device driver file is input; and installing the device driver in the computer (refer to the rejection of claim 14)

As per claim 18, IntelWBTA discloses wherein the installing of the device driver is performed after the copying and storing (e.g. *finished installing software required for this device* - steps 4-10, pg. 2-3 – Note: run 'Setup.exe' in step 4, pg. 4 reads on installation after the driver is loaded in step 10 of pg. 3) of the device driver file is performed.

As per claim 19, IntelWBTA discloses the copying and storing of the device driver file is performed (e.g. steps 4-14, pg. 4-6) after the installing of the device driver is performed.

As per claim 20, IntelWBTA discloses wherein the copying and storing of the device driver file and the installing of the device driver are performed, at the same time (e.g. steps 4-10, pg. 2-3; steps 4-14, pg. 4-6 – Note: inherent copying of file for storing in the course of installing a device driver reads on copying and installing being performed in one instance of installation).

As per claim 21, IntelWBTA discloses a method of installing a device driver in a computer to drive a device that performs a predetermined function, the method comprising: inputting files having at least a device driver file used in installing in the computer the device driver (*insert CD, auto run...window explaining ... features* - steps 1-2, pg. 1); and copying and storing the device driver file from among the input files (e.g. *finished installing software required for this device* - steps 4-10, pg. 2-3).

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 5-8, 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pro/Intel, "Installing the Intel Pro/Wireless 2011 LAN PC Card in Windows 2000 Professional" as applied to claims 1, 9, and 13 above, and further in view of Harms, USPubN: 2002/0042911 (hereinafter Harms).

As per claim 5, IntelWBTA discloses preparing for reinstallation of the device driver in the computer using the stored device driver file, and re-installing the device driver in the computer using the stored device driver file if determining whether the device driver is requested

to be re-installed in the computer (see steps 4-10, pg. 2-3; steps 4-13, pg. 4-6); but does not

explicitly teach determining whether a previously installed device driver exists in the computer,

and when determined that the device driver is requested to be re-installed in the computer

uninstalling the previously installed device driver. The uninstalling of a driver destined for a

same functionality or a version thereof coming from a previously installed older installation of a

driver was a known concept in the technologies of driver installation; and Harms shows that in

order to store to the registry the files corresponding to a driver targeted to be installed, some

uninstalling has to take place (see para 0037, pg. 3) in order for the same vendor's files to be put

into registry for reinstallation of the latest driver (see para 0039, pg. 3; para 0040-0043, pg. 4). It

would have been obvious for one of ordinary skill in the art at the time the invention was made

to manage the preinstallation process as by IntelWBTA so that if a previously installed version

of same vendor exists in the system registry this set of version files would asked to be removed

or uninstalled prior to reinstallation of the new driver files as taught by Harms because by

removing the files, the chances of interference from another set of files for the intended

functionality of the target application whose driver is reinstalled would be obviated, enabling the

proper recognition -- hence operation -- of the desired version/instance of device (see *not*

interfere, can properly detect - para 0003-0004, pg 1).

As per claim 6, IntelWBTA teach detecting a location to store a file and rebooting prior

to reinstallation, i.e. the reinstallation of the device driver in the computer using the stored device

driver file with preparing for re-installation of the device driver in the computer using the stored

device driver file after the computer is re-booted (see steps 1-13, pg. 3-6); but does not explicitly

teach registering a location where the device driver file is stored, after the previously installed

device driver is uninstalled; and re-booting the computer and preparing for reinstallation of the

device driver in the computer using the stored device driver file, according to the location of the

device driver file, when determined that the previously installed device driver does not exist in

the computer. But the reinstallation following a uninstall has been addressed with Harms'

teaching vendor data entry into a registry location and reboot prior to reinstallation (see reboot –

para 0036; para 0038-0043 pg. 3-4) from claim 5; thus, it would have been obvious for one of

ordinary skill in the art at the time the invention was made to provide the uninstall prior to reboot

and reinstallation as set forth by Harms, using registry location storage in light of the rationale

from claim 5 above. One would be motivated to do so because this would enable to determine

which registered files are in the system when an installation such as IntelWBTA's driver install

is pending and because these files are required to be deleted prior for the latest version of files to

be reinstalled to avoid interference as addressed above.

As per claim 7, IntelWBTA (in view of Harms) discloses the re-installing of the device

driver further comprises re-booting (refer to claim 4) the computer after the device driver is re-

installed in the computer.

As per claim 8, IntelWBTA only discloses one type of device driver and does not

discloses wherein the device predetermined function is at least one printing, scanning, faxing,

and digital image taking functions. Harms discloses that a driver to be installed can be an

attached device for which pertinent software can be uninstalled and reinstalled; and that such

device can be a printer, scanner or display device (see para 0024, pg. 2). In light of the common

practices that computer operate with devices being attached thereto, it would have been obvious

for one of ordinary skill in the art at the time the invention was made to apply the driver

installation as set forth above by IntelWBTA so that the targeted driver can also be that for any

device attached to a computer, e.g. a scanner or a printer, because hardware/devices attached to a

computer like network card, printer or graphics card, do come with pertinent software driver and

the indispensable vendor drivers such as by IntelWBTA or Harms; and having the most

appropriate software files to operate any such attached device would enable the application using

such device to operate, lest such attached devices would be improperly supported or

misrepresented for proper usage (see Harms SUMMARY).

As per claim 11, IntelWBTA discloses that the second driver installation unit comprises:

an installation request examination unit, which examines whether a re-installation of the

device driver is requested and outputs an examination result as a second control signal (e.g.

insert CD, auto run...window explaining ... features - steps 1-2, pg. 1; *click Next* - steps 4-10, pg.

2-3 – Note: *Next* button being clicked reads on requests being translated into result thereby more

Next clicking action can be effectuated);

a second installation preparing unit, which prepares for re-installation of the device driver

using the stored device driver file in response to the third control signal, and outputs a

preparation completion signal representing whether the preparation is completed (*finished*

installing software required for this device - steps 4-10, pg. 2-3 - Note: *Next* button being clicked

reads on requests being translated into result thereby more *Next* clicking action can be

effectuated); and

a second installation unit, which re-installs the device driver by reading the stored device

driver file in response to the preparation completion signal input from the second installation

preparation unit (e.g. *finished installing software required for this device* - steps 4-10, pg. 2-3 –

Note: run 'Setup.exe' in step 4, pg. 4 reads on installation after acknowledging input signal that

the driver is loaded in step 10 of pg. 3).

But IntelWBTA does not explicitly disclose a driver examination unit, which examines

whether a previously installed device driver exists in response to the second control signal and

outputs another examination result as a third control signal and driver uninstallation unit, which

uninstalls the previously installed device driver in response to the third control signal and outputs

an uninstallation completion signal representing whether the uninstallation is completed; and a

second installation unit in response to the uninstallation completion signal re-installs the driver

upon an output signal that uninstallation has completed. But this uninstallation signal being

recognized prior to reinstallation has been addressed in claims 5 and 6 above.

As per claim 16, this claim corresponds to the subject matter of claim 11, hence is

rejected with the corresponding rationale as set forth therein.

8.   Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pro/Intel,

"Installing the Intel Pro/Wireless 2011 LAN PC Card in Windows 2000 Professional"

(IntelWBTA), in view of Sybex, 'Windows 98 Complete", Copyright 1998, Chp. 7 (hereinafter

Sybex).

As per claim 22, IntelWBTA teaches the installing of a device driver and copying of

driver file (see Claim 1) but does not explicitly recite that one driver file being copied comprise

and installation program for the device driver. In view of the Windows operating system by

IntelWBTA, it was known concept that Windows-based installation package, at the time the

invention was made, include files that when installed like that of the ProWireless driver

installation process, would comprise an install/unsinstall executable being registered/stored

somewhere in the target system during the initial software installation; the example of which

registering are entries in the OS Registry under 'Windows\Microsoft\CurrentVersion' path which

include keys containing themselves path of executable (files) generated from the initial

installation and provisioned for reinstallation according to some user selection. In this regard,

Windows 98 in light of Sybex discloses a Installer Wizard using Windows Control panel to

automatically look for hardware driver based on some class selection from the wizard (see Fig.

7.10)and alternately, prompt a dialog enabling the user to find the path or network drive to locate

the pertinent reinstallation file for such driver (see pg.133-134). Based on such known concept

implemented in the above Windows installation registry settings concept, it would have been

obvious for one skill in the art at the time the invention was made to implement to file copying

during IntelWBTA so that one of the file copied over the target device comprises executable

needed to support the reinstall/uninstall as taught by Sybex or Windows98 whereby the initial

driver installation as by IntelWBTA would registers or provides a Reinstall directory (searchable

via a path name within the target system) as set forth above, providing thereby the user with the

chance to and the utility for reinstalling the software when an unwanted or critical software

driver-related situation require so, for the benefit such that this would expedite the reactivation or

recovery the software driver without recourse to an external retrieval of that driver, as

contemplated by the very 'reinstall' provision in the Registry.

Response to Arguments

9.   Applicant's arguments filed 5/7/07 have been fully considered but they are not

persuasive. Following are the Examiner's observation in regard thereto.

      35 USC § 101 Rejection:

(A)   Applicant has submitted that the 'first driver installation unit' and 'second driver

installation unit' are substantially synonymous with installation device, which is familiar with

those of skill in the art of software/hardware combination (Appl. Rmrks pg. 8, top half). There is

no such commonly accepted lexicographic statement equating 'installation unit' with 'software

installation device'; and the above statement amounts to a unfounded allegation, notably when

broad terminology in the claim language (i.e. first installation *unit*, second installation *units*) has

been used without corresponding deliberate and explicit definition in the Application Disclosure

(Specifications) for one of ordinary skill in the art to be ascertained that term like 'installation

unit' does mean (in this particular case) a hardware device. According to the USC § 101

Guidelines (see Annex IV (a): Functional Descriptive Material, pg. 52-54) computer program by

itself is not a process; and **only when** used in a machine or a statutory manufacture does it

convey that it is able to have its instructions executed. Accordingly, USPTO personel *'should*

treat a claim for a computer program, without the computer-readable medium needed to realize

the computer program's functionality, as nonstatutory functional descriptive material' (*) –

Guidelines: pg. 4. Thus, in the process of establishing whether a product claim (apparatus claim

9) achieves a final result in compliance with the Practical Application Test, it is necessary to

consider the claim as a whole to identify whether the claim fulfill the following concern:

The current focus of the Patent Office in regard to statutory inventions under 35 U.S.C. § 101 for

method claims and claims that recite a judicial exception (software) is that the claimed invention

recite a practical application. Practical application can be provided by a physical

transformation or a useful, concrete and tangible result.

In so doing, the Examiner has followed the guidelines and since this subject matter is

computer-related field, the aim as to determine whether the claim achieves a final result being

concrete, useful and tangible is thus guided by the section about 'functional descriptive material'

(Guidelines: Annex IV (a)). The claim by providing functionality via 2 concepts recited as *first*

and *second* 'installation unit', in light of the Specifications, is perceived as a product claim (not a

excluded category) being described only as software entities (functional descriptive material)

without hardware support. And according to the remarks in (*), the claim as a whole for not

providing reasonable support of storing software instructions inside a computer-based storage for

execution, amounts clearly to nonstatutory 'functional descriptive material' (refer to the

Guidelines, Annex IV (a): Functional Descriptive Material, pg. 52-54). The argument that the

installation units are considered hardware units is deemed unsupported allegation and the

rejection will stand.

(B)   Applicant has submitted that the Office Action made no assertion that any claim include

excluded subject matter (law of nature, natural phenomenon etc.). Therefore the Examiner's

requirement that the claim should be directed to a Practical Application is inapposite (Appl.

Rmrks pg. 8, bottom half). The rejection of the claim has been based on computer-related

subject matter field, and the proper § 101 guidelines section to be focused on in evaluating

patentability test for the claim has been explained above; that is, establishing whether 'functional

descriptive material' accomplish a final practical application result. The step taken and required

of one USPTO personnel is not to solely address whether the claim falls under any 'excluded

subject matter' as insisted upon in Applicant's argument. The fact that there is no rejection

statement about whether the claim belongs 'excluded subject matter' does not automatically

make the claim statutory as alluded to above, nor does it preclude the claim from being analyzed

for the determination on its being able to yield a compliant Practical Application result as

required by the § 101 statute (see Guidelines, pg. 19-22, under section 2: 'Determine whether the

Claimed invention is a Practical Application of an Abstract idea, Law of Nature, or Natural

phenomenon).   That is, the Examiner's analysis has gone beyond the point of 'excluded subject

matter' and reached the Practical Application determination analysis, and accordingly, the claim

has been deemed not fulfilling the requirements from this analysis. The Applicant's approach to

this seems misplaced, and in view of section A above, the rejection will stand.

(C)   Applicant has submitted that the Office Action made no proper prima facie case for

failing to provide the needed step of identifying whether the claim should belong to the 4

statutory categories (Appl. Rmrks pg 9, bottom, pg. 10, top). There is no such legal statement

that stipulates that if the Office Action fails to recognize that the claimed elements belong to the

one of the four 101 statutory categories, a prima facie is not established, thence the claim

rejection should be reversed. It is one of Examination process step (by the Office personel in

establishing statutory patentability of an invention) to first see that the invention belongs to the

non excluded category; but the process to test whether the claim fulfills the 35 USC § 101 has to

also effectuate the analysis under section 2: Determine whether the Claimed invention is a

Practical Application of an Abstract idea, Law of Nature, or Natural phenomenon. It is in this

light that the claim has been determined as not fulfilling a statutory Practical Application result.

Thus, the above argument is largely misplaced.

35 USC § 102 Rejection:

(D)   Applicant has submitted that the Examiner has misinterpreted 'device driver' and 'device

driver file' in rejecting the 'copying and storing the device driver file' limitation (Appl. Rmrks

pg. 10, bottom half). It is very reasonable to construe a driver to be installed in the system while

the corresponding file thereof is being stored during such installation. In order for each of the

two recited term to dictate some distinguishing characteristics, the claim language should be

providing this additional specificity for each. In the current language of the claim, however,

there is no substantial teaching (in regard to the installation steps of claim 1) that would

distinguish that the driver is a particular entity expressed in some specific language whereas the

driver file is another particular linguistic format. Reasonable interpretation is that the driver is

installed and its file form is also copied in the target device in the course thereof. Applicant's

arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that

the claims define a patentable invention without specifically pointing out how the language of

the claims patentably distinguishes them from the references. For example, the claim does not

teach that the stored driver file would be purported for future reinstallation (see Appl. Rmrks pg.

11), and notwithstanding that, the Applicant maintains that IntelWBTA does not teach copying

the same way that the invention profess in para 0016. It is noted that interpretation of the claim

for patentability merits determination does not include reading the Specifications into the claim

and addressing the claim in light of that material being read. Nor is the interpretation of the

claim be such that by installing the printer driver, IntelWBTA only execute a executable, install a

driver and leave off the driver file back on the CD rom, as implied by Applicant. By installing a

driver, IntelWBTA has, accordingly to broad interpretation of the claim, installed the driver on

the target device by also (by way of inherency) making a copy of its file form on such target.

Installing a driver may entail copying of more than one files; and in interpreting (the claim) that

only one file is copied over, the installation by IntelWBTA using the CD Rom has fulfilled this

copying limitation, which can be construed as but a subtask or substep integral to the grand

scheme of installing the driver (or copying of many driver files).

Thus, the cited parts of IntelWBTA (refer to Rejection) has fulfilled the above 'copying

... storing' limitation. The argument is therefore non-persuasive.

35 USC § 103 Rejection:

(E)   Applicant has submitted that claims 5-8, 11, 16 depend on claims 1,9, and 16 and are also

deemed for allowance. The rejection of claims 1, 9, and 16 has been maintained in light of the

above.

In all, the claims will stand rejected as set forth in the Office Action.

Conclusion

10.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Tuan A Vu whose telephone number is (272) 272-3735. The

examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng-Ai An can be reached on (571)272-3756.

The fax phone number for the organization where this application or proceeding is

assigned is (571) 273-3735 (for non-official correspondence - please consult Examiner before

using) or 571-273-8300 (for official correspondence) or redirected to customer service at 571-

272-3609.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tuan A Vu
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Art Unit 2193
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